

## REMARKS

Claims 5, 6, 8-26, 28-40, 42-54, and 56 – 70 are currently pending in the referenced application. Applicants amended claims 5, 6, 8, 12, 15-23, 28, 38, 42, 53, and 60 in this response. Furthermore, Applicants canceled claims 7, 27, 41, and 55 in this response and added claims 63-70.

### Allowed Claims

Applicants thank Examiner for the allowance of claims 31-37 and 45-52.

### Objections to the Claims

Claims 7, 12, 27, 28, 41, 42, 55, and 60 have been objected to as being dependent upon a rejected base claim and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for indicating that claims 7, 12, 27, 28, 41, 42, 55, and 60 would be allowable if rewritten or amended appropriately to overcome each claims corresponding objection.

Applicants amended claim 5 to incorporate the limitations of claim 7 that the Office Action indicated would put the claim in a condition for allowance. Similarly, Applicants amended claim 23 to incorporate the limitations of claim 27 that the Office Action indicated would put the claim in a condition for allowance. Moreover, Applicants amended claim 38 to incorporate limitations of 41 that the Office Action indicated would put the claim in a condition for allowance. Likewise, Applicants amended claim 53 to incorporate the limitations in claim 55 that the Office Action indicated would put the claim in a condition for allowance.

### Rejections under 35 U.S.C. §102(e)

Claims 5, 6, 8-11, 13-26, 29, 30, 53, 54, 56-59, 61 and 62 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,940,808 to Shields et al. (“Shields”).

*Claim 15*

Claim 15 requires allocating a variable rate pipe including a working subpipe from part of a working pipe and a protecting subpipe from part of a protecting pipe of a ring, the working subpipe having a first bandwidth and the protecting subpipe having a second bandwidth. Moreover, claim 15 requires protection switching a set of protected traffic into part of the protecting pipe while there is a failure on the ring. Furthermore, claim 15 requires reducing the combined bandwidth of the working subpipe and the protecting subpipe in response to the protection switch.

Shields describes a protection scheme that allocates less bandwidth to the traffic during a protection switch than during the normal operating conditions. (Shields, col. 4, ll. 7-10). Specifically, Shields describes distributing the total bandwidth available for a transport network into a first bandwidth and a second bandwidth. (Shields, col. 4, ll. 17-27). Moreover, Shields describes transmitting traffic in a data pipe of said first bandwidth during normal operation and squeezing said data pipe into the second bandwidth whenever protection switching occurs. (Shields, col. 4, ll. 17-27). Furthermore, Shields describes any extra traffic or unprotected class traffic running on the transport network is dropped when a line protection switch occurs. (Shields, col. 6, ll. 27-29; col 6, l. 35).

Conversely, claim 15 requires reducing the combined bandwidth of the working subpipe and the protecting subpipe in response to the protection switch. Thus, when protection switching occurs the protected traffic and the variable rate traffic may continue being transmitted but variable rate traffic may continue at a reduced bandwidth. Shields describes that only the protected bandwidth remains (possibly at a reduced rate) on the network and the other traffic (unprotected and extra) is dropped during a protection switch. Thus, the traffic on the protecting pipe of the mixed variable rate pipe, which in Shields is considered extra traffic and dropped, is instead transmitted on the now smaller variable rate pipe made up of “only” the working subpipe.

Therefore, Shields fails to describe allocating a variable rate pipe including a working subpipe from part of a working pipe and a protecting subpipe from part of a protecting pipe of a ring, the working subpipe having a first bandwidth and the protecting subpipe having a second bandwidth, protection switching a set of protected traffic into part of the protecting pipe while there is a failure on the ring, and reducing the combined

bandwidth of the working subpipe and the protecting subpipe in response to the protection switch. As such, Shields fails to anticipate claim 15.

*Claims 16-22*

Applicants respectfully submit that claims 16-22 are dependent directly or indirectly on claim 15, thus include the same limitations as claim 15. As such, claims 16-22 are allowable for at least the same reasons as claim 15.

*Claims 5, 23, and 53*

As discussed above, Applicants respectfully submit that claims 5, 23, and 53 have been amended to include limitations of claim 7, 27, and 55, respectively, that the Office Action indicated would put the claims in a condition for allowance.

*Claims 6 and 8-14*

Applicants respectfully submit that claims 6 and 8-14 are dependent directly or indirectly on claim 5, thus include the same limitations as claim 5. As such, claims 6 and 8-14 are allowable for at least the same reasons as claim 5.

*Claims 24-26 and 28-30*

Applicants respectfully submit that claims 24-26 and 28-30 are dependent directly or indirectly on claim 23, thus include the same limitations as claim 23. As such, claims 24-26 and 28-30 are allowable for at least the same reasons as claim 23.

*Claims 54 and 56-62*

Applicants respectfully submit that claims 54 and 56-62 are dependent directly or indirectly on claim 53, thus include the same limitations as claim 53. As such, claims 54 and 56-62 are allowable for at least the same reasons as claim 53.

### Claim Rejections under 35 U.S.C. § 103(a)

Claims 38-40, 43 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Shields et al. in view of Duvvuru et al. (both of record).

#### *Claim 38*

As discussed above, Applicants respectfully submit that claim 38 has been amended to include limitations of claim 41 that the Office Action indicated would put the claim in a condition for allowance.

#### *Claims 39, 40, and 42-44*

As discussed above, Applicants respectfully submit that claim 38 has been amended to include limitations of claim 41 that the Office Action indicated would put the claim in a condition for allowance.

### New Claims

#### *Claim 63*

Applicants respectfully submit that claim 63 is allowable for similar reasons as discussed for claim 15. Specifically, claim 63 requires allocating a variable rate pipe from part of a working pipe and at least part of a protecting pipe of a ring, the variable rate pipe having a bandwidth. Furthermore, claim 63 requires protection switching a set of protected traffic into part of the protecting pipe while there is a failure on the ring and reducing the bandwidth of the variable rate pipe when a failure occurs in the ring.

Therefore, when protection switching occurs the protected traffic and the variable rate traffic may continue being transmitted but at a reduced bandwidth. Conversely, Shields describes that only the protected bandwidth remains (possibly at a reduced rate) on the network and the other traffic is dropped during a protection switch.

Therefore, Shields fails to describe allocating a variable rate pipe from part of a working pipe and at least part of a protecting pipe of a ring, the variable rate pipe having a bandwidth, protection switching a set of protected traffic into part of the protecting pipe while there is a failure on the ring, and reducing the bandwidth of the variable rate pipe when a failure occurs in the ring. As such, Shields fails to anticipate claim 63.

*Claims 64-70*

Applicants respectfully submit that claims 64-70 are dependent directly or indirectly on claim 53, thus include the same limitations as claim 53. As such, claims 54 and 56-62 are allowable for at least the same reasons as claim 53.

Conclusion

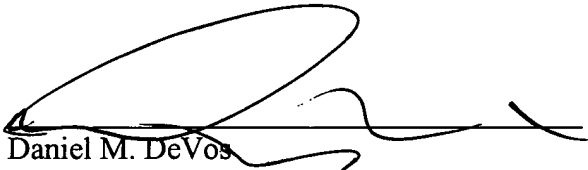
Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Daniel DeVos at (408) 720-8300.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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Daniel M. DeVos  
Reg. No. 37,813

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025-1026  
(408) 720-8300